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Paper No. 10

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APR 23 2002

**OFFICE OF PETITIONS**

|                            |   |                     |
|----------------------------|---|---------------------|
| In re Application of       | : |                     |
| George G. Barclay et al    | : | DECISION DISMISSING |
| Application No. 09/778,365 | : | SECOND REQUEST FOR  |
| Filed: February 8, 2001    | : | RECONSIDERATION     |
| Attorney Docket No. 50533  | : |                     |

This is a decision on the petition for reconsideration filed March 28, 2002, requesting that the above-identified application be accorded a filing date of February 7, 2001, pursuant to the provisions under 37 CFR 1.10, rather than the presently accorded date of February 8, 2001. The petition is filed in response to the Decision Dismissing Petitions mailed September 21, 2001 and January 16, 2002.

Petitioners have submitted, inter alia, a copy of the delivery record confirmation from the USPS, and the copies of the previously filed petitions. However, entitlement of the benefits available under 37 CFR 1.10 depends on the establishment of the "date-in," not the date delivered. The evidence submitted simply does not substantiate that the correspondence was deposited in "Express Mail Post Office to Addressee" service on February 7, 2001.

The petition was reconsidered as requested, but the result is the same. Accordingly, the petition is DISMISSED.

This decision is again made without prejudice to reconsideration upon the filing of a request therefor, accompanied by the necessary corroborating evidence from the USPS or other evidence that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Any further request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)) and should be addressed as follows:

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Receipt is acknowledged of the declaration filed October 5, 2001,  
in response to the Notice mailed April 2, 2001.

The application is being returned to Initial Patent Examination  
Division for further preexamination processing.

Telephone inquiries specific to this matter should be directed to  
Wan Laymon at (703) 306-5685.

*Sherry Brinkley*  
Sherry Brinkley  
Petitions Examiner  
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for Patent Examination Policy